IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 4142 of 1999

Between:
R.Prabhanjan Reddy, S/o R.Rami Reddy, aged 36 years, R/o Sanjeeva Puram village, K.K.Agraharam Post, Bukkarayasamudram Mandal, Anantapur Dist.

..... PETITIONER

AND

1. The Special Commissioner, Land Revenue, A.P., Hyderabad.
2. The Joint Collector, Anantapur, Anantapur District.
3. The Revenue Divisional Officer, Anantapur, Anantapur Dist.
4. The Mandal Revenue Officer, Bukkarayasamudram Mandal, Anantapur Dist.
5. Mandli Kesanna S/o Santhappa, Sanjeevapuram village, K.K.Agraharam Post, Bukkarayasamudram Mandal, Anantapur Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ order or direction, after calling for the records pertaining to the proceedings of the 1st respondent made in his reference Spl.CLR's Proc.BCW1/782/97 dt.28.12.1998 and quash the same.

Counsel for the Petitioner: MR.T. BALAJI, ADVOCATE REPRESENGING M.CHANDRASEKHAR REDDY

Counsel for the Respondents 1 to 4: GP FOR REVENUE (ASSIGNMENT)

Counsel for the Respondent No.5: None appeared.

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.4142 OF 1999

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ORDER:

This writ petition is filed seeking a wit of Certiorari to quash the proceedings dated 28.12.1998 of first respondent, namely, the Special Commissioner, Land Revenue, Hyderabad. By impugned proceedings, the first respondent set aside the orders of the second respondent and directed to restore the land admeasuring Acs.1.83 in Survey No.687-3 of K.K.Aagraharam revenue village, Bukkarayasamudram Mandal of Anantapur District to fifth respondent.

The land in question was assigned (hereafter called, the assigned land) to the fifth respondent by proceedings dated 19.02.1985 of Tahasildar of Singanamala. However, necessary alterations in the village accounts were not effected. It appears the assigned land is adjacent to patta lands of one R.Pulla Reddy and R.Rami Reddy of Sanjeevapuram village. These two persons claimed that they were in possession of the land and that they were evicted from the land, which was assigned to the fifth respondent. Therefore, they challenged the proceedings of the Tahasildar assigning the land to the fifth respondent, before the Revenue Divisional Officer. Be that as it is, it appears one Harijana Kullayappa alias Nallappa filed petition before Revenue Divisional Officer complaining about the assignment of the land to fifth respondent contending that it was he who was in possession of the land and therefore assignment of the land without considering his claim is improper. The Revenue Divisional Officer, the third respondent herein, by proceedings dated 04.04.1994 set aside the orders of the Tahasildar dated 19.02.1985 and remanded the matter to the Mandal Revenue Officer, Bukkarayasamudram for *de novo* enquiry. The fifth respondent filed a revision petition before the second respondent, who by proceedings dated 16.06.1994 directed to assign the land to petitioner @ Rs.400/- per acre treating the land as irrigation dry land. The Joint Collector by orders dated 23.06.1997 confirmed the orders of the

Revenue Divisional Officer directing *de novo* enquiry. Not satisfied with the same, the fifth respondent filed yet another revision petition before the first respondent, who by impugned order directed the restoration of the land to the fifth respondent and also disciplinary action was initiated against the revenue officials, who were responsible for not carrying changes in the revenue records.

The learned counsel for the petitioner Sri T.Balaji submits that the petitioner and his father have been in possession of the land and that the Tahasildar of Singanamala granted DKT patta to fifth respondent without conducting any enquiry and that when he filed appeal against the same, the third respondent called for a report from the fourth respondent. As per the report submitted by the fourth respondent, the petitioner was shown to be in possession of the land and that assignment was made to fifth respondent without evicting him. The third respondent ordered *de novo* enquiry, against which fifth respondent filed a revision before the Joint Collector, who refused to pass any orders of stay. During the pendency of the revision petition before the second respondent, an enquiry was conducted. The enquiry report revealed that fifth respondent never cultivated the land, that the assignment committee in June, 1994 approved the proposals for assigning the land to the petitioner on payment of market value of Rs.400/- (Rupees four hundred only) per acre and thereafter the petitioner paid the market value. When the fourth respondent granted patta on 16.06.1994, the second respondent while dismissing the revision petition filed by the fifth respondent also confirmed the assignment made in favour of the petitioner. Further, revision petition of the first respondent does not lie in law and in any event the order of the first respondent is vitiated as no notice was served on the petitioner and the petitioner had no opportunity of knowing the date of hearing as the counsel he engaged got an appointment and left practice. The learned counsel, therefore, strenuously contends to set aside the impugned order and remand the matter to the first respondent for fresh enquiry.

The learned Assistant Government Pleader for Revenue (Assignment) submits that as per the procedure, notice was sent to the counsel engaged by the petitioner and the same is sufficient compliance of the principles of natural justice. Further, he contends that the petitioner is not a landless poor person and therefore any assignment of Government land in his favour is contrary to Board Standing Orders and therefore the Special Commissioner, Land Revenue, was justified in ordering restoration of land to the fifth respondent because he cannot be

made to suffer for the lapses on the part of the revenue officials in not making changes in the revenue records showing the fifth respondent as occupier of the land.

The petitioner does not deny that his counsel received notice but he did not have any information. When a person invoking quasi judicial remedy engages a licensed Lawyer, the law requires the service of notice on such Lawyer and there is no necessity for serving notice on the person, who invoked quasi judicial remedy. Indeed, when once a Lawyer accepts Vakalat, he has a duty nay a right to file all applications, accept all applications on behalf of the person, who engaged such Lawyer. Except making self serving averment in the affidavit that the petitioner did not receive any notice from the Lawyer, no effort is made before this Court to prove the factum. Be that as it is, the first respondent recorded in the impugned order that the counsel for the petitioner was absent despite service of notice. There is no pleading, nor evidence before this Court, to disbelieve the said statement made by the first respondent. Therefore, I am not able to countenance the submission that the impugned order is vitiated for non-service of notice on the petitioner personally, especially when the notice was served on the petitioner's counsel.

The first respondent gave sound reasons for accepting the revision of the fifth respondent. It is also observed by the first respondent that the policy of assignment is directed to help landless poor persons and not for the people, who have already have land. This shows - in the absence of any rebuttal; that the petitioner is a person already owning land and he is not poor and therefore the assignment committee could not have assigned the land to the petitioner. Further, the fifth respondent has assigned land in 1985 and if the same is not entered in the revenue records like 10(1) accounts, the fifth respondent cannot be blamed. When the petitioner contended that he was in possession of the land, nothing prevented him to produce evidence like cist receipts to show that he is in possession. First respondent found that the petitioner failed to produce any such proof and therefore he cannot claim equities. As the land assigned to the fifth respondent was subsequently assigned to the petitioner without cancelling assignment in favour of the fifth respondent, the only course open was to restore the land to the fifth respondent. That is what precisely ordered by the first respondent. There are no reasons, much less valid reasons, to interfere with the findings of fact based on record arrived at by the first respondent.

The Writ Petition is devoid of merit and is accordingly dismissed.

No costs.

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(V.V.S.RAO,J)

23.08.2004.
pln

To

1. The Special Commissioner, Land Revenue, A.P., Hyderabad.
2. The Joint Collector, Anantapur, Anantapur District.
3. The Revenue Divisional Officer, Anantapur, Anantapur Dist.
4. The Mandal Revenue Officer, Bukkarayasamudram Mandal, Anantapur Dist.
5. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).
6. 2 CD copies.